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INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2005

JULY 8, 2004.—Ordered to be printed

Mr. WARNER, from the Committee on Armed Services,
submitted the following

R E P O R T

[To accompany S. 2386]

The Committee on Armed Services, to which was referred the bill (S. 2386) to authorize appropriations for fiscal year 2005 for intelligence and intelligence-related activities of the United States Government, the Community Management Account of the Director of Central Intelligence, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

PURPOSE OF THE BILL

S. 2386 would authorize appropriations and other matters for fiscal year 2005 for intelligence activities of the United States, including certain Department of Defense intelligence-related activities within the jurisdiction of the Senate Armed Services Committee.

The Senate Select Committee on Intelligence reported the bill on May 5, 2004, and it was referred to the Committee on Armed Services on May 7, 2004, in accordance with section 3(b) of Senate Resolution 400, 94th Congress.

SCOPE OF THE COMMITTEE REVIEW

The committee has carefully reviewed the Intelligence Authorization Act for Fiscal Year 2005 and the Senate report to accompany S. 2386 (S. Rept. 108-258). The total amount within the jurisdiction of the Committee on Armed Services recommended for the National Foreign Intelligence Program has been incorporated into the budget tables in the Senate Amendment to H.R. 4200, the National

Defense Authorization Act for Fiscal Year 2005, which the Senate passed on June 23, 2004.

The following explains the committee's proposed amendments to the bill, as reported by the Senate Select Committee on Intelligence, as well as the committee's clarification to the report issued by the Senate Select Committee on Intelligence.

Classified annex to the committee report

The committee has prepared a classified annex to this report that describes other recommendations and concerns that are classified in nature.

Preparation and submission of reports, reviews, studies, and plans relating to intelligence activities of Department of Defense and Department of Energy

S. 2386, the accompanying report (S. Rept. 108–258), and the classified annex thereto, include many requirements for reports, reviews, studies, and plans requiring the sole or joint participation of defense intelligence activities. The committee believes that any such requirements levied on the Director of Central Intelligence or other elements of the Intelligence Community that involve intelligence or intelligence-related activities of the Department of Defense and Department of Energy must be conducted in consultation with the Secretary of Defense and the Secretary of Energy. Any reports, reviews, studies, or plans that concern intelligence activities of these Departments should be submitted to the Committees on Armed Services and Defense Subcommittees on Appropriations of the Senate and the House of Representatives, in addition to the respective intelligence committees. The committee's proposed amendment would add a section to title I, S. 2386, to require appropriate consultation with the Departments of Defense and Energy, and direct distribution of related reports, reviews, studies, and plans to the appropriate committees of jurisdiction.

Repeal of limitation on length of service as member of the Select Committee on Intelligence of the Senate

Section 306 of S. 2386 would repeal the eight-year limit on continuous service on the Select Committee on Intelligence. The term limit was included in Senate Resolution 400, dated May 19, 1976, which established the Select Committee on Intelligence (SSCI). The committee concurs in the need to periodically review Senate rules in the light of evolving oversight requirements. However, the committee believes any changes to the legislation governing the rules and procedures of the SSCI should more appropriately be made, after careful consideration by all relevant committees and the full Senate, by amending the original Senate Resolution 400. Such an important change to the traditional practices of the Senate should not be made as a provision of a larger authorization bill that is subject to review by a committee of conference of the Senate and House of Representatives. The Members of the Committee on Armed Services, separately and collectively, reserve the right to submit an amendment related to this provision during consideration of S. 2386 on the Senate floor.

Repeal of sunset on authority to engage in commercial activities as security for intelligence collection activities

Section 501 of S. 2386 would amend section 231(a) of title 10, United States Code, to make permanent the authority of the Secretary of Defense to engage in commercial activities as security for authorized intelligence collection activities abroad. Section 1062 of the Senate amendment to H.R. 4200 contains a similar provision that would extend this authority for two years. Current authority expires on December 31, 2004 and should be continued, especially in light of current military requirements around the world. The Department of Defense did not include a request for extension of this authority in their legislative recommendations for fiscal year 2005. The committee believes that additional consultation with the Department is necessary before permanent authority should be granted. The committee's proposed amendment would strike Section 501, S. 2386. This provision will be addressed by the committee of conference on the National Defense Authorization Act for Fiscal Year 2005.

COMMITTEE ACTION

In accordance with the Legislative Reorganization Act of 1946, as amended by the Legislative Reorganization Act of 1970, the committee approved a motion to report favorably to the Senate S. 2386, with an amendment.

FISCAL DATA

The committee will publish in the Congressional Record information on five-year cost projections when such information is received from the Congressional Budget Office.

REGULATORY IMPACT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires that a report on the regulatory impact of a bill be included in the report on the bill. The committee finds that there is no regulatory impact in the cost of S. 2386, the Intelligence Authorization Act for Fiscal Year 2005.

CHANGES IN EXISTING LAW

Pursuant to the provisions of paragraph 12 of rule XXVI of the Standing Rules of the Senate, the changes in existing law made by certain portions of the bill have not been shown in this section of the report because, in the opinion of the committee, it is necessary to dispense with showing such changes in order to expedite the business of the Senate and reduce the expenditure of funds.